101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-74

BUSINESS OPPORTUNITY DEVELOPMENT REFORM ACT TECHNICAL CORRECTIONS ACT

JUNE 1, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. LAFALCE, from the Committee on Small Business, submitted the following

REPORT

[To accompany H.R. 1764]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 1764) to make technical corrections to the Business Opportunity Development Reform Act of 1988, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line number of the introduced bill) is as follows:

Page 13, line 23, insert "Reform" before "Act".

INTRODUCTION

H.R. 1764 was introduced on April 11, 1989 by Committee Chairman John J. LaFalce and ranking minority member Joseph McDade. The bill was referred to the Small Business Committee and was retained in full committee for its consideration. By voice vote H.R. 1764 was ordered favorably reported, as amended, at a Committee mark-up held on April 12, 1989.

PURPOSE OF THE LEGISLATION

In October 1988, Congress passed the Business Opportunity Development Reform Act of 1988, now Public Law 100-656. The purpose of that Act is to ensure that the Capital Ownership Development Program and the Section 8(a) authority be used exclusively for business development purposes to help small businesses owned and controlled by socially and economically disadvantaged individ-

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uals to compete on an equal basis in the mainstream of the American economy. In so doing, the goals of the program shall be to increase the number of competitive firms that exit the program by providing both meaningful business development services and fair and equitable distribution of Federal contracting opportunities to such firms while discouraging unreasonable reliance on Section 8(a) contracts.

The purpose of this bill is to make corrections to the Business Opportunity Development Reform Act. Unfortunately, in the crush of business at the end of the 100th Congress, some technical errors were made in the final version of the bill. In addition, one conference agreement was omitted from the text of the final bill and some typographical and nomenclature errors were made. The purpose of this bill, therefore, is to correct these mistakes so that the reforms will be implemented completely in conformity with Congressional intent.

Major Provisions of the Bill

SEC. 2. DEFINITIONS

This section adds a definition of Business Opportunity Specialist, a term which is used extensively in the Business Opportunity Development Reform Act. It is a key term because the emphasis of the Act is on *developing* minority firms rather than on merely handing out federal contracts as had been too often the emphasis in the past. The Business Opportunity Specialists are to be the key SBA personnel involved in this reform effort.

SEC. 3. PROGRAM ELIGIBILITY

This section revises section 7(j)(11) of the Small Business Act to make clear that persons, who have determined to be socially and economically disadvantaged under section 8(a) of the Small Business Act, may apply for 8(a) certification *for only one company.* An exception to this rule is made for economically disadvantaged Indian tribes. These may own more than one 8(a) company provided (1) the Indian tribe does not own another firm in the same industry, and (2) the individuals responsible for the management and daily operations of the concern do not manage any more than two 8(a) firms.

During the course of consideration of the Business Opportunity Development Reform Act it came to the attention of the Committee that often the same people were applying for 8(a) certification for more than one firm. The Committee considers this an abuse of the program since the economically disadvantaged individual would appear more interested in collecting federal contract dollars rather than *developing* his or her firm so that the firm could later be competitive without the help of sole-source federal contracts. This provision ends that abuse.

It was not the intent of this provision, however, to prohibit economically disadvantaged Indian tribes from having several 8(a) firms. This is often essential for the economic wellbeing of these tribes, which are very often in isolated areas and which are dependent on these firms to provide employment for tribal members.

The provision, therefore, allows Indian tribes to have several 8(a) firms provided no more than two firms are managed by the same personnel and provided each firm is in a separate industry.

Section 3 of the bill also requires that the Small Business Administration (SBA) must process 8(a) applications within 90 days. This provision was agreed upon in the Conference Committee on the Business Opportunity Development Reform Act but was inadvertently omitted in the final drafting of the bill.

This is one of the most critical provisions of the 8(a) Reform Act. Although there are only about 3,000 firms in the 8(a) program, the Committee notes that as of May 1989 there were over *2,000* applications for 8(a) status pending in SBA district, regional, and national offices. Fully 35% of SBA staff hours are spent on 8(a) certifications—yet often over a year elapses between the time of application and the granting or denial of certification. The Committee finds this situation intolerable and evidence of poor management of the program.

The 90 day requirement, however, is not a panacea. The Committee expects the SBA to reexamine all aspects of this process. The requirements for certification should be made as simple and straightforward as possible. In this regard the Committee notes with dismay that SBA's recently proposed 8(a) regulations have criteria for determining "economic disadvantage" that are truly mind-boggling in their complexity. Yet the simplest criterion for economic disadvantage—a simple dollar limit on net worth—is nowhere to be found. The Committee wishes to emphasize *again* that the social purpose of the program is to develop and "grow" viable American businesses owned by socially and economically disadvantaged individuals. It is *not* the purpose of the program to maximize the personal wealth of private individuals.

In addition, duplicate and triplicate reviews at regional and national offices should be curtailed as much as possible. SBA should also explore additional ways to eliminate this logjam and to free up personnel so that they can do the *development assistance* that these firms need. For example, in keeping with the intent underlying section 303(g) of the Business Opportunity Development Reform Act, SIC codes should be afforded generously and modified liberally to reflect a logical progression of company growth. At the present time far too much time and energy is spent adjudicating such technicalities. The Committee expects the SBA to keep it informed of its progress in solving this problem.

SEC. 15. CONTRACT PERFORMANCE

This section clarifies section 8(a)(21) of the Small Business Act to waive a requirement of prior notice to SBA of asset transfers in the event of the death of an owner of an 8(a) company. The Act inadvertently required prior notice to SBA of all asset transfers by 8(a) companies. Naturally an exception must be made in the case of the death of an 8(a) firm's owner.

SEC. 19. COMMISSION ON MINORITY BUSINESS DEVELOPMENT

This section adds language to section 505 of the Business Opportunity Development Reform Act to make it clear that it was Con-

gress' intent that the Commission on Minority Business Development be located in SBA "for housekeeping purposes." Therefore, as H.R. 1764 states, "To facilitate the expeditions initiation of the Commission's activities, the Administrator of the Small Business Administration shall designate an Executive Secretary and provide such additional interim staff and support services as the Administrator deems appropriate until the time of the Commission's organizational meeting and the designation of its Executive Director, or such longer time as may be agreed upon by the Administrator and the Chairperson of the Commission."

Although it was clearly intended by Congress the Act did not explicitly state that the Commission on Minority Business Development would be located in SBA for housekeeping purposes. The Committee then learned that SBA was reluctant to assume this responsibility for budgetary reasons. These reasons have now been remedied. This provision will make clear the Congressional intent.

SEC. 20. AMENDMENTS TO EFFECTIVE DATES

A direct loan program for socially and economically disadvantaged businesses is authorized by section 302 of the Business Opportunity Development Reform Act. That Act sets the effective date of the loan program as October 1, 1989. That was an error. It should have been October 1, 1988. This section, therefore, partially remedies the error by setting June 1, 1989 as the effective date of the program.

SECTION-BY-SECTION ANALYSIS OF H.R. 1764

Sec. 1. Short title

This section states that this Act may be cited as the "Business Opportunity Development Reform Act Technical Corrections Act".

Sec. 2. Definitions

This section amends section 2 of the Act—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(2) by inserting after paragraph (2) the following new definition:

"(3) the term 'Business Opportunity Specialist' means the Administration employee responsible for providing business development assistance to Program Participants pursuant to sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a));"; and

(3) in paragraph (6), as redesignated—

(A) by striking "Small Business" and inserting "Minority Small Business", and

(B) by inserting before the semicolon the following: ", unless otherwise indicated".

Sec. 3. Program eligibility

This section amends section 7(j)(ii) of the Small Business Act (15 U.S.C. 636(j)(11))—

(1) by striking subparagraph (B) and inserting the following:

"(B)(i) Except for an economically disadvantaged Indian tribe which owned a Program Participant as of September 1, 1988, no individual who has determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

"(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 8(a)(4) shall be permitted to assert such eligibility for only one small business concern.

"(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to section 7(j)(10) and section 8(a) if—

"(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

"(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.";

(2) in the first sentence of subparagraph (E), by striking "Office of the Associate Administrator for Minority Small Business" and inserting "Office of Minority Small Business";

(3) in the second sentence of subparagraph (E), by striking "such Associate Administrator" and inserting "the Associate Administrator for Minority Small Business and Capital Ownership Development";

(4) in subparagraph (F)(v), by striking "with the Associate Administrator" and inserting "to the Associate Administrator";

(5) in subparagraph (F), by striking clause (vi) and inserting:

"(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;";

(6) in subparagraph (F)(viii), by striking "subparagraph (H)" and inserting "subparagraph (I)";

(7) in subparagraph (G)(ii), by striking "participants" and inserting "Participants";

(8) by redesignating subparagraph (H) as subparagraph (I); and

(9) by inserting after subparagraph (G) the following:

"(H) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern a Program Participant or shall deny such application.".

Sec. 4. Business plans

This section amends section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) by striking "which sets forth" and inserting "which set forth".

This section also amends section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) by striking "business opportunity specialist" and inserting "Business Opportunity Specialist", by striking "small business concerns" and inserting "the small business concern", by inserting at the end of clause (iii) the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)", by striking "contact awards" and inserting "contract awards", and in clause (iv)(I) by inserting before the second comma the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)".

Sec. 5. Eligibility reviews and eligibility of native Hawaiians

This section amends section 7(j)(10)(J)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(J)(i) by striking "suspended or terminated" and inserting "suspended".

This section also amends section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) by striking "organizations" and inserting "Organization".

Further this section amends section 207(b) of the Act by striking "(15 U.S.C. 631(e)(2)(C))" and inserting in lieu thereof "(15 U.S.C. 631 (e)(1)(C))".

Finally this section amends section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A))—

(1) in clause (i), by inserting "unconditionally" after "per centum"; and

(2) in clause (ii), by inserting "unconditionally" before "owned by".

Sec. 6. Termination and graduation standards

This section amends section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10))—

(1) by striking subparagraph (E)(ii) and inserting:

"(ii) completes the period of Program participation as prescribed by paragraph (15);";

(2) by striking the first subparagraph (F);

(3) in subparagraph (F), by striking the first sentence and inserting the following: "For purposes of this section and section 8(a), the term 'terminated' and the term 'termination' means the total denial or suspension of assistance under this paragraph or under section 8(a) prior to the graduation of the participating small business concern or prior to the expiration of the maximum program participation term.";

Sec. 7. Stages of program participation

This section amends section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)—

(1) in subparagraph (A), by striking "development" and inserting "developmental"; and

(2) in subparagraph (B), by inserting "in its effort" after "to assist the concern".

This section also amends section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) by striking the second sentence and inserting the following: "Such assistance may be made without

regard to section 18(a). Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee provided that such reimbursement is deemed reasonable and appropriate.".

Sec. 8. Loans

This section amends section 7(a)(20) of the Small Business Act (15 U.S.C. 636(a)(20)) in subparagraph (C)(iv), by inserting "is" before "amortized".

Sec. 9. Contractual assistance

This section amends section 303(a) of the Act by striking "15 U.S.C. 363(j)(10)" and inserting "15 U.S.C. 636(j)(10)".

It also amends 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) by striking "(i) During the developmental stage" and inserting "(I)(i) During the developmental stage".

This section also amends section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) by striking "program participants;; and inserting "Program Participants".

Further this section amends section 303(f)(2) of the Act by inserting "active" before "contracts previously awarded".

Finally this section amends section 8(a)(17)(B) of the Small Business Act (15 U.S.C. 637(a)(17)(B))

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following:

"(ii) be a small business concern under the numerical size standard for the Standard Industrial Classification Code assigned to the contract solicitation on which the offer is being made;".

Sec. 10. Status of the associate administrator for minority small business and capital ownership development

This section amends section 401(a) of the Act by striking "In Section" and inserting "Section". It also amends section 401(b) of the Act by striking "of the Act" and inserting "of the Small Business Act".

Sec. 11. Prohibited actions and employee responsibilities

This section amends section 8(a)(18)(A) of the Small Business Act (15 U.S.C. 637(a)(18)(A)) by striking "certified".

Sec. 12. Politically motivated activites

This section amends section 8(a)(19)(B) of the Small Business Act (15 U.S.C. 637(a)(19)(B)), by striking ", imposed by the Administrator,".

Sec. 13. Reports by program participants

This section amends section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) by striking "business opportunity specialist" and inserting "Business Opportunity Specialist".

Sec. 14. Congressionally requested investigations

This section amends section 10(e)(2) of the Small Business Act (15 U.S.C. 639(e)(2)) by striking "of the disposition of the matter" and inserting ", of the disposition of the request".

Sec. 15. Contract performance

This section amends section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21))—

(1) in subparagraph (B), by striking "The Administrator may, as a matter of discretion and on a nondelegable basis, waive the requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:" and inserting the following: "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if one of the following conditions exist:"; and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

"(C) The Administrator may waive the requirements of subparagraph (A) if—

"(i) in the case of subparagraph (B) (i), (ii) and (iv), he is requested to do so prior to the actual relinquishemnt of ownership or control; and

"(ii) in the case of subparagraph (B) (iii), he is requested to so so as soon as possible after the incapacity or death occurs.".

Sec. 16. Due process rights

This section amends section 8(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9))—

(1) in subparagraph (A), by striking "Administrator" and inserting "Administration";

(2) in subparagraph (B)(iii), by striking "section 7(j)(10)(H)" and inserting "section 7(j)(10)(G)"; and

(3) in subparagraph (C), by striking "Administrator's" and inserting "Administration's".

Sec. 17. Employee training and evaluation

This section amends section 410 of the Act—

(1) in subsection (a) by striking "Training Requirements for Business Specialists" and inserting "Training Requirements for Business Opportunity Specialists"; and

(2) in subsection (c)(2), by striking "subsection (a)" and inserting "subsection (b)".

Sec. 18. Presidential report on contracting goals

This section amends section 15(h)(2)(A) of the Small Business Act (15 U.S.C. 633(h)(2)(A)) by inserting "individuals" after "economically disadvantaged".

Sec. 19. Commission on minority business development

This section amends section 505 of the Act—

(1) in subsection (b)(1)(B)(ii), by striking "program participants" each place it appears and inserting "program Participants";

(2) in subsection (b)(1)(C), by striking "subparagraph (B)" and inserting "subparagraph (A)";

(3) in subsection (b)(2)(C), by striking "each such subparagraph" and inserting "paragraph (1)";

(4) in subsection (c)(3), by striking "such subparagraphs" and inserting "subparagraphs (B), (C), and (D)";

(5) in subsection (c)(6)(B), by striking "paragraph 2" and inserting "subsection (b)(2)";

(6) in subsection (d)(1)(B), by striking "531(b)" and inserting "5311(b)";

(7) by adding at the end of subsection (d) the following:

"(C) To facilitate the expenditious initiation of the Commission's activities, the Administrator of the Small Business Administration shall designate an Executive Secretary and provide such additional intereim staff and support services as the Administrator deems appropriate until the time of the Commission's organizational meeting and the designation of its Executive Director, or such longer time as may be agreed upon by the Administrator and the Chairperson of the Commission.";

(8) in subsection (f), by striking "ceased to exist on" and inserting "cease to exist within 90 days after"; and

(9) in subsection (g), by striking "authorized in the section" and inserting "authorized in this section".

Sec. 20. Amendments to effective dates

This section amends section 803 of the Act—

(1) in subsection (b)(3)(B), by striking "Sections 302 and" and inserting "Section"; and

(2) in subsection (b), by redesignating paragraphs "(2)" and "(3)" as paragraphs "(3)" and "(4)" and adding new paragraph (2) as follows:

"(2) Section 302 shall take effect on June 1, 1989.".

Sec. 21. Effective dates of this Act

This section provides that the amendments made by this Act shall apply as if included in the Business Opportunity Development Reform Act of 1988.

Committee Action

H.R. 1764 was ordered favorably reported as amended by a voice vote on April 12, 1989.

Matters Required To Be Discussed Under House Rules

In compliance with clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the following statements are made:

With regard to subdivision (A), relating to oversight findings, the Committee finds, in keeping with clause 2(b)(1) of rule X, that this

legislation is in full compliance with the provision of this rule of the House which states:

> In addition each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee. * * *

With regard to subdivision (B), relating to the statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974, the following statement is made relative to the legislation:

Section 3(3) of the Congressional Budget Act defines the term "tax expenditures" as those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential tax rate of tax, or a deferral of tax liability.

None of the provisions of H.R. 1764 deals with taxation and thus, in your Committee's opinion, this bill does not provide new or increased tax expenditures.

Section 3(2) of the Congressional Budget Act defines the term "budget authority" as authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds or to collect off-setting receipts.

Section 3(10) of such Act defines "credit authority" as authority to incur direct loan obligations or to incur primary loan guarantee commitments.

Under these definitions, it is the final action of Congress that authorizes an agency to enter into obligations which constitutes new budget authority or new credit authority. In those cases which entail (1) an authorization for an agency to undertake a program or enter guarantees; (2) an authorization for appropriation of funds to permit that agency to enter into obligations; and (3) an actual appropriation of such funds, it would be only the final action of Congress in appropriating funds which constitutes the budget authority or the credit authority.

None of the provisions of H.R. 1764 appropriates funds and thus, in the Committee's opinion, the bill does not provide new budget authority or new credit authority.

With regard to subdivisions (C) and (D), the estimate and comparison of the Director of the Congressional Budget Office relative to H.R. 1764 follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 1989.

Hon. JOHN J. LAFALCE,
Chairman, Committee on Small Business, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1764, the Business Opportunity Development Reform Act Technical Corrections Act, as ordered reported by the House Committee on Small Business, April 12, 1989. We estimate that enactment of this bill would result in additional outlays by the feder-

al government of about $300,000 in fiscal year 1989 and $900,000 in 1990, without further appropriation.

H.R. 1764 would make technical corrections to the Business Opportunity Development Reform Act of 1988. In addition, the bill would change the effective date of the new Section 8(a) loan program from October 1, 1989 to June 1, 1989.

We expect that advancing the effective date of the Section 8(a) loan program would result in additional outlays by the federal government of $300,000 in fiscal year 1989 and $900,000 in 1990. Appropriations of $8 million have already been provided for this program for fiscal year 1989, but cannot be obligated until the authorization is effective. Only $5 million remains available for obligation because $3 million has been reprogrammed for Small Business Administration salaries and expenses. We estimate that only $1.5 million would be obligated in fiscal year 1989 because of the time needed to implement the program and make loan approvals. Most of the outlays would occur in 1990, because loan approvals would occur very late in fiscal year 1989. If the authorization does not take effect in 1989, the funds cannot be used this year and will be carried over to next year as unobligated balances in the business loan and investment fund. Other provisions of the bill are not expected to result in additional cost to the federal government.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Douglas Criscitello, who can be reached on 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Other Matters Required to be Discussed Under House Rules

No oversight findings or recommendations have been made by the Committee on Government Operations with respect to the subject matter contained in H.R. 1764.

In compliance with clause 2(l)(4), the Committee concludes that the provisions of this legislation in and of themselves will have no inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7, rule XII of the House of Representatives, the Committee makes the following statement:

The cost estimates and comparison prepared by the Director of the Congressional Budget Office has been included above. Accordingly, it is not necessary for your Committee to include an estimate of the costs of carrying out this bill in this fiscal year and the five subsequent fiscal years.

No cost estimate was submitted by any Government agency on H.R. 1764 to the Committee.

In the Committee's opinion, the above statements fully comply with the Rules of the House of Representatives.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

BUSINESS OPPORTUNITY DEVELOPMENT REFORM ACT OF 1988

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SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration, unless otherwise indicated;

(3) the term "Business Opportunity Specialist" means the Administration employee responsible for providing business development assistance to Program Participants pursuant to sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a));

[(3)] *(4)* the term "disadvantaged owners" means those individuals upon whom eligibility is based for participation in the Program and the award of subcontracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a));

[(4)] *(5)* the term "minority owned businesses" means business concerns that are at least 51 percent owned and controlled by one or more individuals who belong to those groups described or identified pursuant to section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(1)(C));

[(5)] *(6)* the term "Program" means the *Minority* Small Business and Capital Ownership Development Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)), *unless otherwise indicated*;

[(6)] *(7)* the term "Program Participant" means a small business concern participating in the Program; and

[(7)] *(8)* the term "Program Participation Term" means the fixed period of time assigned to a Program Participant pursuant to section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) prior to the date of enactment of this Act.

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TITLE II—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

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SEC. 207. ELIGIBILITY OF NATIVE HAWAIIANS.

(a) * * *

(b) TECHNICAL AMENDMENT.—Section 2(e)(1)(C) of such Act [(15 U.S.C. 631(e)(2)(C))] *(15 U.S.C. 631(e)(1)(C))* is amended by inserting

"Native Hawaiian Organizations," after "Asian Pacific Americans,".

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TITLE III—BUSINESS DEVELOPMENT

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SEC. 303. CONTRACTUAL ASSISTANCE.

(a) COMPETITIVE BUSINESS MIX.—Section 7(j)(10) of the Small Business Act [(15 U.S.C. 363(j)(10)),] *(15 U.S.C. 636(j)(10))*, is further amended by adding at the end thereof the following new subparagraph:

* * * * * * *

(f) OPTIONS.—(1) * * *

(2) Within sixty days after the date of enactment of this Act, the Small Business Administration, and the appropriate Federal agency, shall make substantial and sustained efforts to negotiate contract modifications for fair market price for any and all unpriced options contained in *active* contracts previously awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) with the contractor that was initially awarded such contract.

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TITLE IV—IMPROVED MANAGEMENT AND PROGRAM INTEGRITY

SEC. 401. STATUS OF THE ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT.

(a) GENERAL.—[In] Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended by inserting immediately after "Associate Administrator for Minority Small Business and Capital Ownership Development" the following: "who shall be an employee in the competitive service or in the Senior Executive Service and a career appointee".

(b) CAREER POSITION.—The position of Associate Administrator for Minority Small Business and Capital Ownership Development referred to in paragraph (1) of section 4(b) of the *Small Business* Act shall be a career reserved position.

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SEC. 410. EMPLOYEE TRAINING AND EVALUATION.

(a) TRAINING REQUIREMENTS FOR BUSINESS *OPPORTUNITY* SPECIALISTS.—(1) In each Small Business Administration field office responsible for assisting one or more Program Participants there shall be a position designated as a Business Opportunity Specialist. To the maximum extent practicable the Administration shall assure that an adequate number of Business Opportunity Specialists are assigned to each district office to carry out the responsibilities of sec-

tions 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) and to assist Program Participants.

* * * * * * *

(c) REPORT AND PILOT PROGRAM TERMINATION.—(1) * * *

(2) The pilot program conducted pursuant to subsection [(a)] *(b)* shall be terminated three years after the date on which the Committees on Small Business of the Senate and of the House of Representatives receive written notification from the Administrator that the pilot is in full operation in each of the three designated pilot regions.

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TITLE V—CONTRACT PLANNING; GOAL SETTING AND REVIEWS

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SEC. 505. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) * * *

(b) DUTIES.—(1) The Commission shall—

(A) * * *

(B) review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program established pursuant to 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10) including—

(i) the procedure whereby the Administration certifies concerns pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)), including, the average time for the processing of applications, the criteria for program admission, and the geographic and industrial distribution of new program entrants;

(ii) the developmental assistance provided under the Small Business Act to such concerns and whether such assistance has been of benefit to [program participants] *Program Participants* and whether modifications, additions, or deletions to such assistance should be provided to further the purposes of the program; such evaluation shall also include an analysis of whether program benefits, including contract awards, have been equitably distributed among all [program participants] *Program Participants* and whether all regions of the Nation have benefitted from the program in proportion to their respective numbers of minority owned businesses;

* * * * * * *

(C) review and assess the programs described in subparagraph [(B)] *(A)* and whether the congressional purposes for such programs are being achieved in a manner that is consistent with the intent of other programs established under Federal law to promote the development of small business concerns; and

* * * * * * *

(2)(A) * * *

* * * * * * *

(C) The final report shall be issued within 1 year after the interim report and shall contain detailed findings, conclusions, and recommendations for such changes in law or regulation as may be necessary to further the growth and development of minority businesses. Such findings, conclusions, and recommendations shall be stated for each issue described under [each such subparagraph] *Paragraph (1).*

(c) MEMBERSHIP.—(1) * * *

* * * * * * *

(3) Members appointed under [such subparagraphs] *subparagraphs (B), (C), and (D)* shall be appointed for the term of the Commission except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

* * * * * * *

(6)(A) Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

(B) A majority of the Commission shall constitute a quorum for the approval of a report submitted pursuant to [paragraph 2.] *subsection (b)(z).*

* * * * * * *

(d) DIRECTOR AND STAFF.—(1)(A) The Commission shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(B) The Director and staff of the Commission may be appointed without regard to section [531,(b)] *5311(b)* of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(C) To facilitate the expeditious initiation of the Commission's activities, the Administrator of the Small Business Administration shall designate an Executive Secretary and provide such additional interim staff and support services as the Administrator deems appropriate until the time of the Commission's organizational meeting and the designation of its Executive Director, or such longer time as may be agreed upon by Administrator and the Chairperson of the Commission.

* * * * * * *

(f) TERMINATION.—The Commission shall [cease to exist on] *cease to exist within 90 days after* the date that it transmits its final report to the Congress and to the President.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until the Commission is terminated. New spending authority or authority to enter contracts as authorized in [the] *this* section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

* * * * * * *

TITLE VIII—AUTHORIZATIONS, EFFECTIVE DATES, AND MISCELLANEOUS MATTERS

* * * * * * *

SEC. 803. EFFECTIVE DATES.

(a) * * *

(b) SPECIAL RULES.—(1) * * *

(2) Section 302 shall take effect on June 1, 1989.

[(2)] *(3)* Section 407 shall take effect with respect to contracts entered into on or after June 1, 1989.

[(3)] *(4)* The following sections (and the amendments made by such sections) shall take effect on October 1, 1989:

(A) Section 209.

(B) [Sections 302 and] *Section* 303(b).

(C) Sections 501, 502, and 503.

(D) Section 7(j)(13)(E) of the Small Business Act (as added by section 301(b) of this Act).

SMALL BUSINESS ACT

* * * * * * *

SEC. 7. (a) The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans by to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this Act. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

(1) * * *

* * * * * * *

(20)(A) * * *

* * * * * * *

(C) A direct loan or the Administrations share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

(i) * * *

* * * * * * *

(iv) the principal on which *is* amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.

* * * * * * *

(j)(1) * * *

* * * * * * *

(10) There is established within the Administration a small business and capital ownership development program (hereinafter referred to as the "Program") which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The program, and all other services and activities authorized under section 7(j) and 8(a) of this act, shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.

(A) The Program shall—

(i) assist small business concerns participating in the Program (either through public or private organizations) to develop and maintain comprehensive business plans which [sets] *set* forth the Program Participant's specific business targets, objectives, and goals developed and maintained in conformity with subparagraph (D).

* * * * * * *

(D)(i) Promptly after certification under paragraph (11) a Program Participant shall submit a business plan (hereinafter referred to as the "plan") as described in clause (ii) of this subparagraph for review by the business opportunity specialist assigned to assist such Program Participant. The plan may be a revision of a preliminary business plan submitted by the Program Participant or required by the Administration as a part of the application for certification under this section and shall be designed to result in the Program Participant eliminating the conditions or circumstances upon which the Administration determined eligibility pursuant to section 8(a)(6). Such plan, and subsequent modifications submitted under clause (iii) of this subparagraph, shall be approved by the [business opportunity specialist] *Business Opportunity Specialist* prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

(ii) The plans submitted under this subparagraph shall include the following:

(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation.

(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which are likely to impede [small business concerns] *the*

small business concern from receiving contracts other than those awarded under section 8(a).

* * * * * * *

(iii) Each Program Participant shall annually review its currently approved plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Business Opportunity Specialist. Annual reviews pertaining to years in the transitional stage of program participation shall require, as appropriate, a written verification that such Program Participant has complied with the requirements of subparagraph (I) *relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a).*

(iv) Each Program Participant shall annually forecast its needs for [contact] *contract* awards under section 8(a) for the next program year and the succeeding program year during the review of its business plan, conducted pursuant to clause (iii). Such forecast shall be known as the section 8(a) contract support level and shall be included in the Program Participant's business plan. Such forecast shall include:

(I) the aggregate dollar value of contract support to be sought on a noncompetitive basis under section 8(a), reflecting compliance with the requirements of subparagraph (I) *relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a),*

* * * * * * *

(E) A small business concern participating in the program conducted under the authority of this paragraph and eligible for the award of contracts pursuant to section 8(a) shall be denied all such assistance if such concern—

(i) voluntarily elects not to continue participation;

[(ii) participates in the Program for a period in excess of the time limits prescribed by paragraph (15);]

(ii) completes the period of Program participation as prescribed by paragraph (15);

* * * * * * *

[(F) For the purposes of sections 7(j) and 8(a), the terms "terminated" or "termination" shall mean the total denial]

(F) [For the purposes of this Act, sections 7(j) and 8(a), the terms "terminated" or "termination" shall mean the total denial or suspension of assistance provided pursuant to this paragraph or section 8(a) prior to the graduation of the participating small business concern pursuant to subparagraph (H) or the expiration of the maximum program participation in terms prescribed by paragraph (15).] *For purposes of this section and section 8(a), the term "terminated" and the term "termination" means the total denial or suspension of assistance under this paragraph or under section 8(a) prior to the graduation of the participating small business concern or prior to the expiration*

of the maximum program participation term. An action for termination shall be based upon good cause, including—

(i) the failure by such concern to maintain its eligibility for Program participation;

* * * * * * *

(I) (i) During the development stage of its participation in the Program, a Program Participant shall take all reasonable efforts within its control to attain the targets contained in its business plan for contracts awarded other than pursuant to section 8(a) (hereinafter referred to as "business activity targets."). Such efforts shall be made a part of the business plan and shall be sufficient in scope and duration to satisfy the Administration that the Program Participant will engage a reasonable marketing strategy that will maximize its potential to achieve its business activity targets.

* * * * * * *

(J)(i) The Administration shall conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility. Upon making a finding that a Program Participant is no longer eligible, the Administration shall initiate a termination proceeding in accordance with subparagraph (F). A Program Participant's eligibility for award of any contract under the authority of section 8(a) may be suspended **[**or terminated**]** pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

* * * * * * *

(11)(A) * * *

[(B) Except as provided in section 602(d) of the Business Opportunity Development Reform Act of 1988, any individual upon whom eligibility is based pursuant to section 8(a)(4), shall be permitted to assert such eligibility for only one small business concern. Notwithstanding the provisions of the preceding sentence, no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.**]**

(B)(i) Except for an economically disadvantaged Indian tribe which owned a Program Participant as of September 1, 1988, no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 8(a)(4) shall be permitted to assert such eligibility for only one small business concern.

(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to section 7(j)(10) and section 8(a) if—

(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.

* * * * * * *

(E) There is established a Division of Program Certification and Eligibility (hereinafter referred to in this paragraph as the "Division") that shall be made part of the Office of [the Associate Administrator for] Minority Small Business and Capital Ownership Development. The Division shall be headed by a Director who shall report directly to [such Associate Administrator.] *the Associate Administrator for Minority Small Business and Capital Ownership Development.* The Division shall establish field offices within such regional offices of the Administration as may be necessary to perform efficiently its functions and responsibilities.

(F) Subject to the provisions of section 8(a)(9), the functions and responsibility of the Division are to—

(i) * * *

* * * * * * *

(v) make a request for the initiation of termination or graduation proceedings, as appropriate, [with] *to* the Associate Administrator for Minority Small Business and Capital Ownership Development;

[(vi) decide protests from applicants that have been denied program admission;]

(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;

* * * * * * *

(viii) implement such policy directives as may be issued by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to subparagraph [(H)] *(I)* regarding, among other things, the geographic distribution of concerns to be admitted to the program and the industrial make-up of such concerns.

(G) An applicant shall not be denied admission into the program established by pargraph (10) due solely to a determination by the Division that specific contract opportunities are unavailable to assist in the development of such concern unless—

(i) the Government has not previously procurred and is unlikely to procure the types of products or services offered by the concern; or

(ii) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program [par-

ticipants] *Participants* providing the same or similar items or services.

(H) Not later than ninety days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern a Program Participant or shall deny such application.

[(H)](*I*) Thirty days before the conclusion of each fiscal year, the Director of the Division shall review all concerns that have been admitted into the Program during the preceding 12-month period. The review shall ascertain the number of entrants, their geographic distribution and industrial classification. The Director shall also estimate the expected growth of the Program during the next fiscal year and the number of additional Business Opportunity Specialists, if any, that will be needed to meet the anticipated demand for the Program. The findings and conclusions of the Director shall be reported to the Associate Administrator for Minority Small Business and Capital Ownership Development by September 30 of each year. Based on such report and such additional data as may be relevant, the Associate Administrator shall, by October 31 of each year, issue policy and program directives applicable to such fiscal year that—

(i) establish priorities for the solicitation of program applications from underrepresented regions and industry categories;

(ii) assign staffing levels and allocate other program resources as necessary to meet program needs; and

(iii) establish priorities in the processing and admission of new Program Participants as may be necessary to achieve an equitable geographic distribution of concerns and a distribution of concerns across all industry categories in proportions needed to increase signfiicantly contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. When considering such increase the Administration shall give due consideration to those industrial categories where Federal purchases have been substantial but where the participation rate of such concerns has been limited.

(12)(A) The Administration shall segment the Capital Ownership Development Program into two stages: a [development] *developmental* stage; and a transitional stage.

(B) The developmental stage of program participation shall be designed to assist the concern *in its effort* to overcome its economic disadvantage by providing such assistance as may be necessary and appropriate to access its markets and to strengthen its financial and managerial skills.

(13) A Program Participant, if otherwise eligible, shall be qualified to receive the following assistance during the stages of program participation specified in paragraph 12:

(A) * * *

* * * * * * *

(E) Financial assistance whereby the Administration may purchase in whole or in part, and on behalf of such concerns, skills training or upgrading for employees or potential employ-

ees of such concerns. [Such financial assistance may be made without regard to section 18(a), shall be made by way of reimbursement to the training provider, and shall have such adjustments as may be necessary to provide for overpayments or underpayments.] *Such assistance may be made without regard to section 18(a). Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee provided that such reimbursement is deemed reasonable and appropriate.* For purposes of this subparagraph the term 'training provider' shall mean an institution of higher education, a community or vocational college, or an institution eligible to provide skills training or upgrading under the Job Training Partnership Act (29 U.S.C. 1501 et seq.). The Administration shall, in consultation with the Secretary of Labor, promulgate rules and regulations to implement this subparagraph that establish acceptable training and upgrading performance standards and provide for such monitoring or audit requirements as may be necessary to ensure the integrity of the training effort. No financial assistance shall be granted under the subparagraph unless the Administrator determines that—

* * * * * * *

SEC. 8. (a)(1) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary or appropriate—

(A) * * *

* * * * * * *

(D)(i) A contract opportunity offered for award pursuant to this subsection shall be awarded on the basis of competition restricted to eligible [program participants] *Program Participants* if—

* * * * * * *

(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

(i) which is at least 51 per centum *unconditionally* owned by—

* * * * * * *

(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is *unconditionally* owned by—

* * * * * * *

(9)(A) Subject to the provisions of subparagraph (E), the [Administrator,] *Administration,* prior to taking any action described in subparagraph (B), shall provide the small business concern that is the subject of such action, an opportunity for a hearing on the record, in accordance with chapter 5 of title 5, United States Code.

(B) The actions referred to in subparagraph (A) are—

(i) denial of program admission based upon a negative determination pursuant to paragraph (4), (5), or (6);

(ii) a termination pursuant to section 7(j)(10)(F);

(iii) a graduation pursuant to section [7(j)(10)(H)] *7(j)(10)(G)*; and

(iv) the denial of a request to issue a waiver pursuant to paragraph (21)(B).

(C) The [Administrator's] *Administration's* proposed action, in any proceeding conducted under the authority of this paragraph shall be sustained unless it is found to be arbitrary, capricious, or contrary to law.

* * * * * * *

(15) For purposes of this subsection, the term "Native Hawaiian [organizations]" *Organization* means any community service organization serving Native Hawaiians in the State of Hawaii which—

* * * * * * *

(17(A) * * *

(B) To be in compliance with the requirements referred to in subparagraph (A), such a business concern shall—

(i) be primarily engaged in the wholesale or retail trade;

(ii) be a small business concern under the numerical size standard for the Standard Industrial Classification Code assigned to the contract solicitation on which the offer is being made;

[(ii)] *(iii)* be a regular dealer, as defined pursuant to section 35(a) of title 41, United States Code (popularly referred to as the Walsh-Healey Public Contracts Act), in the product to be offered the Government or be specifically exempted from such section by section 7(j)(13)(C); and

[(iii)] *(iv)* represent that it will supply the product of a domestic small business manufacturer or processor, except that, the Administrator may waive the application of the clause, as it pertains to the furnishing of a product manufactured or processed by a small business, for any class of products for which there are no small business manufacturers or processors in the Federal market.

(18)(A) No person within the employ of the Administration shall, during the term of such employment and for a period of two years after such employment has been terminated, engage in any activity or transaction specified in subparagraph (B) with respect to any Program Participant [certified] during such person's term of employment, if such person participated personally (either directly or indirectly) in decision-making responsibilities relating to such Program Participant or with respect to the administration of any assistance provided to Program Participants generally under this subsection, section 7(j)(10)), or section 7(a)(20).

* * * * * * *

(19)(A) * * *

(B) Any employee who willfully and knowingly violates subparagraph (A) shall be subject to disciplinary action[, imposed by the Administrator,] which may consist of separation from service, reduction in grade, suspension, or reprimand.

* * * * * * *

(20)(A) Small business concerns participating in the Program under section 7(j)(10) and eligible to receive contracts pursuant to this section shall semiannually report to their assigned [business opportunity specialist] *Business Opportunity Specialist* the following:

* * * * * * *

(21)(A) * * *

(B) [The Administrator may, as a matter of discretion and on a nondelegable basis, waive the requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:] *The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if one of the following conditions exist:*

(C) The Administrator may waive the requirements of subparagraph (A) if—

(i) in the case of subparagraph (B) (i), (ii) and (iv), he is requested to do so prior to the actual relinquishment of ownership or control; and

(ii) in the case of subparagraph (B)(iii), he is requested to do so as soon as possible after the incapacity or death occurs.

[(C)] (*D*) Concerns performing contracts awarded pursuant to this subsection shall be required to notify the Administration immediately upon entering an agreement (either oral or in writing) to transfer all or part of its stock or other ownership interest to any other party.

[(D)] (*E*) Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this section, any potential ownership interests held by investment companies licensed under the Small Business Investment Act of 1958 shall be treated in the same manner as interests held by the individuals upon whom eligibiliity is based.".

SEC. 10. (a) * * *

* * * * * * *

(e)(1) * * *

(2) The Committee on Small Business of either the Senate or the House of Representatives may request that the Office of the Inspector General of the Administration conduct an investigation of any program or activity conducted under the authority of section 7(j) or 8(a). Not later than thirty days after the receipt of such a request, the Inspector General shall inform the committee, in writing [of the disposition of the matter], *of the disposition of the request* by such office.

* * * * * * *

SEC. 15. (a) * * *

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(h)(1) * * *

(2) The Administration shall annually compile and analyze the reports submitted by the individual agencies pursuant to para-

graph (1) and shall submit them to the President. The Administration's submission to the President shall include the following:

(A) The Government-wide goals for participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged *individuals* and the prerformance in attaining such goals.

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